

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DESTAIN BURTON,

Petitioner,

v.

Case No. 2:04-cv-33
HON. ROBERT HOLMES BELL

FAVIAN LAVIGNE,

Respondent.

_____ /

ORDER AND JUDGMENT
APPROVING REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties, and no objection has been made thereto within the time required by law.

THEREFORE, IT IS ORDERED that:

1. The Report and Recommendation of the Magistrate Judge (Docket #29) is approved and adopted as the opinion of the Court.
2. The petition for writ of habeas corpus is dismissed with prejudice. Petitioner is denied a certificate of appealability should he file an appeal of this judgment.

Date: November 9, 2006

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE